

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

**MANUAL PEREZ, Individually, and as  
the Executor of the Estate of Dolores  
Perez,**

**Plaintiff,**

**v.**

**Civil No. 1:06-cv-948  
(GLS/RFT)**

**VALASTRO, L.L.C., doing business as  
Adirondack Bar & Grill, and STACY  
L. GOODSPEED as the Administrator  
of the Estate of Jason S. Goodspeed,**

**Defendants.**

**RONALD KELLER,**

**Plaintiff,**

**v.**

**Civil No. 1:06-cv-986**

**(GLS/DRH)**

**JOHN DEERE AND COMPANY;  
HOMELITE CONSUMER PRODUCTS,  
INC; HOMELITE INC.; and TECHTRONIC  
INDUSTRIES NORTH AMERICA, INC.,**

**Defendants.**



**KATHLEEN CURNS and LINDA ZUKAITIS,**

**Plaintiffs,**

**v.**

**Civil No. 1:06-cv-1336  
(GLS/DRH)**

**WAL-MART STORES INC.,**

**Defendant.**

**GERALD BATCHER,**

**Plaintiff,**

**v.**

**Civil No. 1:07-cv-1  
(GLS/DRH)**

**WARREN FAMIGLIETTI,**

**Defendant.**

**ANGEL HERNANDEZ,**

**Plaintiff,**

**Civil No. 1:07-cv-113  
(GLS/RFT)**

**v.**

**DUKE BUNCE, II; DAVID DUGATKIN;  
and THE TOWN OF NEW PALTZ; ,**

**Defendants.**

**ENERGY SERVICES PROVIDERS, INC.,**

**Plaintiff,**



**v.**

**Civil No. 1:07-cv-686  
(GLS/DRH)**

**CONSUMER SALES SOLUTIONS, LLC,**

**Defendant.**

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**THE ANDERSON GROUP, LLC and  
GAIL ANDERSON,**

**Plaintiffs,**

**v.**

**Civil No. 1:05-cv-1369**

**(GLS/DRH)**

**CITY OF SARATOGA SPRINGS, ET AL.,**

**Defendants.**

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**TRAVIS NAJA,**

**Plaintiff,**

**v.**

**Civil No. 1:07-cv-465  
(GLS/DRH)**

**PAUL M. VEITCH, Individually and in  
his Official Capacity as Police Officer  
of the City of Saratoga Springs,**

**Defendant.**

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**ONEBEACON AMERICA INSURANCE  
COMPANY, as subrogee of The  
Garrett Hotel Group, Inc.,**

**Plaintiff,**



v.

Civil No. 8:07-cv-900  
(GLS/RFT)

COMSEC VENTURES INTERNATIONAL,  
INC., and MAHONEY NOTIFY-PLUS,  
INC.,

Defendants.

SARA BODE KULLMAN and  
JENNIFER SNYDER,

Plaintiffs,

v.

Civil No. 8:07-cv-716  
(GLS/DRH)

STATE OF NEW YORK, et al.,

Defendants.

DONNA HOFER,

Plaintiff,

v.

Civil No. 1:07-cv-1055  
(GLS/DRH)

FAMILY OF WOODSTOCK, INC.,

Defendant.

MADELINE FOWLER,

Plaintiff,

v.

Civil No. 1:07-cv-1197



**(GLS/RFT)**

**KOHL'S DEPARTMENT STORES, INC.,**

**Defendant.**

**NAUM SHKOLNIK,**

**Plaintiff,**

**v.**

**Civil No. 1:07-cv-854  
(GLS/DRH)**

**PHILLIPS MEDICAL SYSTEMS MR,  
INC.,**

**Defendant.**

**ALBANY PATROONS, INC.,**

**Plaintiff,**

**v.**

**Civil No. 1:08-cv-691  
(GLS/DRH)**

**UNITED STATES BASKETBALL LEAGUE,**

**Defendant.**

**CHERYL CIPPERLEY and ART  
CIPPERLEY,**

**Plaintiffs,**

**v.**

**Civil No. 1:07-cv-1136  
(GLS/DRH)**



**ATS, INC. and OCTAVIO CAYETANO,  
SR.,**

**Defendants.**

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**JOEL SHANKS and RICK SHANKS,**

**Plaintiffs,**

**v.**

**Civil No. 1:06-cv-1399  
(GLS/DRH)**

**VILLAGE OF CATSKILL BOARD OF  
TRUSTEES; VILLAGE OF CATSKILL  
FIRE DEPT.; VILLAGE OF CATSKILL  
FIRE COMPANY INC.; RANDY ORMEROD;  
FLOYD PRINCE, JR.; JACK ORMEROD,  
SR.; NEAL RUSSELL; JOHN DARLING,  
III; JIM CHEWENS; STEVE SCHULTZ;  
HANK COONS; JOHN DEES; RICK  
CHEWENS; HAROLD RIVENBURG;  
FOREST COTTON; ANGELO W. AMATO;  
JOSEPH KOZLOSKI; PAUL OVERBAUGH;  
VINCENT SEELEY; and PAUL D.  
ORMEROD, JR.,**

**Defendants.**

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**WANT AD DIGEST, INC.,**

**Plaintiff**

**v.**

**Civil No. 1:08-cv-189  
(GLS/DRH)**

**DISPLAY ADVERTISING, INC and  
EDWARD H. SPAIN,**



**Defendants.**

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**E. BRUCE NAUMAN,**

**Plaintiff,**

**v.**

**Civil No. 1:07-cv-740  
(GLS/RFT)**

**RENSSELAER POLYTECHNIC  
INSTITUTE,**

**Defendant.**

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**TIMOTHY E. COUGHTRY and  
JOANN E. COUGHTRY,**

**Plaintiffs,**

**v.**

**Civil No. 1:08-cv-875  
(GLS/RFT)**

**TRACKER MARINE, LLC,**

**Defendant.**

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**WARREN EDWARD IVEY,**

**Plaintiff,**

**v.**

**Civil No. 9:02-cv-470  
(GLS/GJD)**

**JAMES LYMAN,**

**Defendant.**

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**EARL JOHN CUTTER, SR., Deceased,  
and LEONA M. CUTTER, as Administratrix  
of the Estate of Earl John Cutter, Sr.,  
Deceased,**

**Plaintiffs,**

**v.**

**Civil No. 1:06-cv-1381  
(GLS/RFT)**

**UNITED STATES OF AMERICA,**

**Defendant.**

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**APPEARANCES:**

**OF COUNSEL:**

**PEREZ, ET AL. (1:06-cv-948)**

**FOR PLAINTIFF PEREZ:**

Powers, Santola Law Firm  
39 North Pearl Street  
2nd Floor  
Albany, New York 12207-2205  
(518) 465-5995

JOHN H. FISHER, ESQ.

**FOR DEFENDANT VALASTRO,  
L.L.C.:**

Petrone, Petrone Law Firm  
1624 Genesee Street  
Utica, New York 13502  
(315) 735-7566

DAVID H. WALSH, IV, ESQ.

**FOR DEFENDANT GOODSPEED:**



Hiscock, Barclay Law Firm  
50 Beaver Street  
Fifth Floor  
Albany, New York 12207-2330  
(518) 429-4275

CHARLES Z. FELDMAN, ESQ.

**KELLER, ET AL. (1:06-cv-986)**

**FOR PLAINTIFF KELLER:**

Hanson Law Firm  
1801 Altamont Avenue  
Schenectady, New York 12303  
(518) 355-4525

KRISTIE HALLORAN HANSON  
ESQ.

**FOR DEFENDANTS JOHN DEERE  
AND COMPANY, HOMELITE  
CONSUMER PRODUCTS, INC.,  
HOMELITE INC., and TECHTRONIC  
INDUSTRIES NORTH AMERICA,  
INC.:**

Thorn, Gershon Law Firm  
5 Wembley Court  
New Karner Road  
P.O. Box 15054  
Albany, New York 12212-5054  
(518) 464-6770

ERIN P. MEAD, ESQ.  
MATTHEW H. MCNAMARA,  
ESQ.  
MAUREEN S. BONANNI, ESQ.

**CURNS, ET AL. (1:06-cv-1336)**

**FOR PLAINTIFFS CURNS and  
ZUKAITIS:**

Thompson, Wigdor Law Firm  
Empire State Building  
85 Fifth Avenue

DOUGLAS H. WIGDOR, ESQ.  
ANDREW S. GOODSTADT,  
ESQ.



Fifth Floor  
New York, New York 10003  
(212) 257-6800

**FOR DEFENDANT WAL-MART  
STORES INC.:**

Littler, Mendelson Law Firm  
900 Third Avenue  
New York, New York 10022-4834  
(212) 497-8485

JOEL L. FINGER, ESQ.  
MARGUERITE S. WYNNE, ESQ.

**BATCHER, ET AL. (1:07-cv-1)**

**FOR PLAINTIFF BATCHER:**

Office of Elmer R. Keach, III  
1040 Riverfront Center  
P.O. Box 70  
Amsterdam, New York 12010  
(518) 684-0236

BETHANY SCHUMANN-MCGHEE  
ESQ.

**FOR DEFENDANT FAMIGLIETTI:**

Carter, Conboy Law Firm  
20 Corporate Woods Boulevard  
Albany, New York 12211  
(518) 465-3484

JAMES A. RESILA, ESQ.  
WILLIAM J. DECAIRE, ESQ.

**HERNANDEZ, ET AL. (1:07-cv-113)**

**FOR PLAINTIFF HERNANDEZ:**

Oliver, Oliver Law Firm  
156 Madison Law Firm  
Albany, New York 12202  
(518) 463-7962

LEWIS B. OLIVER, JR., ESQ.



**FOR DEFENDANTS BUNCE,  
DUGATKIN, and THE TOWN OF  
NEW PALTZ:**

Hodges, Walsh Law Firm  
55 Church Street  
Suite 211  
White Plains, New York 10601  
(914) 385-6000

HAROLD L. MOROKNEK, ESQ.

**ENERGY, ET AL. (1:07-cv-686)**

**FOR PLAINTIFF ENERGY SERVICE  
PROVIDERS, INC.:**

Harris, Beach Law Firm  
677 Broadway  
Suite 1101  
Albany, New York 12207  
(518) 427-9700

MARK J. MCCARTHY, ESQ.

**FOR DEFENDANT CONSUMER  
SALES SOLUTIONS, LLC:**

Bailey, Sherman Law Firm  
42-21 Douglaston Parkway  
Douglaston, New York 11356  
(718) 631-2500

EDWARD G. BAILEY, ESQ.

**ANDERSON, ET AL. (1:05-cv-1369)**

**FOR THE ANDERSON PLAINTIFFS:**

Relman & Associates  
1225 19<sup>th</sup> Street, N.W.  
Suite 600  
Washington, D.C. 20036

REED N. COLFAX, ESQ.  
JOHN P. RELMAN, ESQ.



(202) 728-0848

Lynch, Farrell Law Firm  
111 State St.  
Albany, New York 12207  
(518) 463-1252

PETER A. LYNCH, ESQ.

**FOR THE CITY OF SARATOGA  
SPRINGS DEFENDANTS:**

Lemire, Johnson Law Firm  
P.O. Box 2485  
2534 Route 9  
Malta, New York 12020  
(518) 899-5700

GREGG T. JOHNSON, ESQ.

**NAJA, ET AL. (1:07-cv-465)**

**FOR PLAINTIFF NAJA:**

The Law Offices of Gerard V. Amedio,  
PC  
18 Division Street  
Suite 211 A  
Saratoga Springs, New York 12866  
(518) 583-4123

GERARD V. AMEDIO, ESQ.

**FOR DEFENDANT VEITCH:**

Office of James B. Tuttle  
10 Century Hill Drive  
Suite 4  
Latham, New York 12110  
(518) 783-1001

JAMES B. TUTTLE, ESQ.

**ONE BEACON, ET AL. (8:07-cv-900)**



**FOR PLAINTIFF ONEBEACON  
AMERICA INSURANCE  
COMPANY:**

Cozen, O'Connor Law Firm  
The Atrium  
1900 Market Street  
3<sup>rd</sup> Floor  
Philadelphia, PA 19103  
(215) 665-2000

MICHAEL J. IZZO, ESQ.  
STEVEN K. GERBER, ESQ.

Cozen, O'Connor Law Firm  
45 Broadway Atrium  
16<sup>th</sup> Floor  
New York, New York 10006  
(212) 908-1276

JOHN B. GALLIGAN, ESQ.

Hacker, Murphy Law Firm  
7 Airport Park Boulevard  
Latham, New York 12110-0104  
(518) 783-3843

JAMES E. HACKER, ESQ.

**FOR DEFENDANT COSMEC  
VENTURES INTERNATIONAL  
INC.:**

Napierski, Vandenberg Law Firm  
296 Washington Avenue Extension  
Albany, New York 12203  
(518) 862-9292

THOMAS J. O'CONNOR, ESQ.  
ASA S. NEFF, ESQ.

**FOR DEFENDANT MAHONEY  
NOTIFY-PLUS, INC.:**

Wilson, Elser Law Firm  
3 Gannett Drive  
White Plains, New York 10604

CATHLEEN A. GIANNETTA,  
ESQ.  
THOMAS A. LEGHORN, ESQ.



(914) 323-7000

BERNICE E. MARGOLIS, ESQ.

**KULLMAN, ET AL. (8:07-cv-716)**

**FOR PLAINTIFFS KULLMAN  
AND SNYDER:**

Office of Elmer R. Keach, III  
1040 Riverfront Center  
P.O. Box 70  
Amsterdam, New York 12010  
(518) 684-0236

ELMER R. KEACH, III, ESQ.  
BETHANY SCHUMANN-  
MCGHEE, ESQ.

**FOR DEFENDANTS STATE OF  
NEW YORK, THOMAS RINALDI  
and ANDREW JACOBS:**

HON. ANDREW M. CUOMO  
New York Attorney General  
The Capitol  
Albany, New York 12224  
(518) 474-8370

KELLY L. MUNKWITZ  
Assistant Attorney General

**FOR DEFENDANT STEPHEN  
SCHERRY:**

Lemire, Johnson Law Firm  
P.O. Box 2485  
2534 Route 9  
Malta, New York 12020  
(518) 899-5700

GREGG T. JOHNSON, ESQ.  
DANIELLE M. BARONE, ESQ.

**FOR DEFENDANT DANIEL  
WALSH:**

McNamee, Lochner Law Firm  
677 Broadway

CHRISTOPHER MASSARONI  
ESQ.



Albany, New York 12207-2503  
(518) 447-3200

GLEN P. DOHERTY, ESQ.

**FOR DEFENDANT PAUL  
RINALDI:**

Watanabe Law Firm, LLC  
444 Madison Avenue  
17<sup>th</sup> Floor  
New York, New York 10022

LAURA A. WATANABE, ESQ.  
WILLIAM K. WATANABE, ESQ.

**HOFLER, ET AL. (1:07-cv-1055)**

**FOR PLAINTIFF HOFLER:**

Disability Advocates, Inc.  
5 Clinton Square  
Third Floor  
Albany, New York 12207  
(518) 432-7861

NINA LOEWENSTEIN, ESQ.  
CLIFF ZUCKER, ESQ.

**FOR DEFENDANT FAMILY OF  
WOODSTOCK, INC.:**

Roemer, Wallens Law Firm  
13 Columbia Circle  
Albany, New York 12203  
(518) 464-1300

DIONNE A. WHEATLEY, ESQ.

**FOWLER, ET AL. (1:07-cv-1197)**

**FOR PLAINTIFF FOWLER:**

DuCharme, Harp Law Firm  
10 Maxwell Drive  
Suite 205  
Clifton Park, New York 12065

CHERYL L. SOVERN, ESQ.  
KIMBERLY A. HARP, ESQ.



(518) 373-1482

**FOR DEFENDANT KOHLS:**

Hancock, Estabrook Law Firm  
1500 AXA Tower I  
Syracuse, New York 13221  
(315) 471-3151

LINDSEY H. HAZELTON, ESQ.

Office fo Steven F. Goldstein  
One Old Country Road  
Suite 318  
Carle Place, New York 11514  
(516) 873-0011

CHRISTOPHER R. INVIDIATA,  
ESQ.  
GINA M. ARNEDOS, ESQ.  
STEVEN F. GOLDSTEIN, ESQ.

**SHKOLNIK, ET AL. (1:07-cv-854)**

**FOR PLAINTIFF SHKOLNIK:**

Gleason, Dunn Law Firm  
40 Beaver Street  
Albany, New York 12207  
(518) 432-7511

RONALD G. DUNN, ESQ.

**FOR DEFENDANT PHILLIPS  
MEDICAL SYSTEMS MR, INC.:**

McGuire, Woods Law Firm  
1345 Avenue of the Americas  
7th Floor  
New York, New York 10105-0106  
(212) 548-2100

MICHAEL J. DIMATTIA, ESQ.  
PHILIP A. GOLDSTEIN, ESQ.

**ALBANY, ET AL. (1:08-cv-691)**

**FOR PLAINTIFF ALBANY  
PATROONS:**



Office of Andrew H. Wood  
9 Jase Court  
Albany, New York 12208  
(518) 434-5522

ANDREW H. WOOD, ESQ.

**FOR DEFENDANT UNITED STATES  
BASKETBALL LEAGUE:**

Burke, Scolamiero Law Firm  
9 Washington Square, Suite 201  
P.O. Box 15085  
Albany, New York 12212-5085  
(518) 862-1386

THOMAS J. MORTATI, ESQ.

**CIPPERLEY, ET AL. (1:07-cv-1136)**

**FOR CIPPERLEY PLAINTIFFS:**

Finkelstein & Partners, LLP  
1279 Route 300  
Newburgh, New York 12550  
(845) 562-0203

ELEANOR L. POLIMENI, ESQ.  
FRANCIS NAVARRA, ESQ.

**FOR DEFENDANTS ATS, INC.  
and OCTAVIO CAYETANO, SR.:**

Office of Lorne M. Reiter  
14 Wall Street  
20th Floor  
New York, New York 10005  
(212) 222-0955

LORNE M. REITER, ESQ.

**SHANKS, ET AL. (1:06-cv-1399)**

**FOR SHANK PLAINTIFFS:**

Office of Robert N. Isseks

ROBERT N. ISSEKS, ESQ.



6 North Street  
Middletown, New York 10940  
(845) 344-4322

Office of Evan M. Foulke  
1997 Route 17M  
P.O. Box 239  
Goshen, New York 10924  
(845) 294-4308

EVAN M. FOULKE, ESQ.

**FOR VILLAGE OF CATSKILL  
BOARD OF TRUSTEES,  
VILLAGE OF CATSKILL FIRE  
DEPT., COTTON, and SEELEY:**

Office of M. Randolph Belkin  
26 Century Hill Drive  
Suite 202  
Latham, New York 12110  
(518) 785-5340

M. RANDOLPH BELKIN, ESQ.

**FOR THE VILLAGE OF CATSKILL  
FIRE COMPANY INC. DEFENDANTS:**

Carter, Conboy Law Firm  
20 Corporate Woods Boulevard  
Albany, New York 12211  
(518) 810-0531

WILLIAM T. LITTLE, ESQ.

**WANT AD ET AL. (1:08-cv-189)**

**FOR PLAINTIFF WANT AD  
DIGEST, INC.:**

Girvin, Ferlazzo Law Firm  
20 Corporate Woods Boulevard  
2nd Floor

SALVATORE D. FERLAZZO,  
ESQ.  
ROBERT F. MANFREDO, ESQ.



Albany, New York 12211-2350  
(518) 462-0300

**FOR DEFENDANTS DISPLAY  
ADVERTISING, INC. and  
EDWARD H. SPAIN:**

Office of Joshua A. Sabo  
287 North Greenbush Road  
Troy, New York 12180  
(518) 286-9050

JOSHUA A. SABO, ESQ.

**NAUMAN, ET AL. (1:07-cv-740)**

**FOR PLAINTIFF NAUMAN:**

Gleason, Dunn Law Firm  
40 Beaver Street  
Albany, New York 12207  
(518) 432-7551

RONALD G. DUNN, ESQ.  
LISA F. JOSLIN, ESQ.

**FOR DEFENDANT RENSSELAER  
POLYTECHNIC INSTITUTE:**

Littler, Mendelson Law Firm  
Three Parkway  
Suite 1400  
1601 Cherry Street  
Philadelphia, Pennsylvania 19102  
(267) 402-3000

JACQUELINE R. BARRETT,  
ESQ.  
KRISTINE G. DEREWICZ, ESQ.  
SARAH L. POWENSKI, ESQ.

Littler, Mendelson Law Firm  
900 Third Avenue  
New York, New York 10022-4834  
(212) 583-9600

STEPHEN A. FUCHS, ESQ.

**COUGHTRY, ET AL. (1:08-CV-875)**



**FOR PLAINTIFFS TIMOTHY  
E. COUGHTRY and JOANN  
E. COUGHTRY:**

Whiteman, Osterman Law Firm  
One Commerce Plaza  
Suite 1900  
Albany, New York 12260  
(518) 487-7600

WILLIAM S. NOLAN, ESQ.

**FOR DEFENDANT TRACKER  
MARINE, LLC:**

Hodgson, Russ Law Firm  
677 Broadway  
Suite 301  
Albany, New York 12207  
(518) 465-2333

RICHARD L. WEISZ, ESQ.

**IVEY, ET AL. (9:02-cv-470)**

**FOR PLAINTIFF IVEY:**

Maynard, O'Connor Law Firm  
6 Tower Place  
Albany, New York 12203  
(518) 465-3553

ALEXANDER L. STABINSKI,  
ESQ.

**FOR DEFENDANT LYMAN:**

HON. RICHARD S. HARTUNIAN  
United States Attorney  
445 Broadway  
218 James T. Foley U.S. Courthouse  
Albany, New York 12207-2924  
(518) 431-0247

BARBARA D. COTTRELL  
Assistant U.S. Attorney



**CUTTER, ET AL. (1:06-cv-1381)**

**FOR CUTTER PLAINTIFFS:**

Caplan, Caplan Law Firm  
1707 Central Avenue  
Albany, New York 12205  
(518) 464-6644

MARIO D. COMETTI, ESQ.  
MURRAY N. CAPLAN, ESQ.

**FOR DEFENDANT UNITED STATES  
OF AMERICA:**

HON. RICHARD S. HARTUNIAN  
United States Attorney  
445 Broadway  
218 James T. Foley U.S. Courthouse  
Albany, New York 12207-2924  
(518) 431-0247

DIANE CAGINO  
Assistant U.S. Attorney

**Gary L. Sharpe**  
**District Court Judge**

**Trial Order**

All relevant Uniform Pretrial Scheduling Order deadlines having expired in the above twenty-one (21) captioned cases, are hereby designated “trial ready” in the numerical order listed, and shall proceed to trial during a jury term beginning on **Monday, May 17, 2010**, and continuing thereafter on a daily schedule. All listed actions are governed by this Scheduling Order **unless** they are designated “exempt” according



to the terms of this order, and a new Scheduling Order is issued by a Magistrate or District Court Judge.

In order of priority, the cases are designated as follows:

- 1. Perez, et al. (1:06-cv-948);**
- 2. Keller, et al. (1:06-cv-986);**
- 3. Curns, et al. (1:06-cv-1336);**
- 4. Batchner, et al. (1:07-cv-1);**
- 5. Hernandez, et al. (1:07-cv-113);**
- 6. Energy Services, et al. (1:07-cv-686);**
- 7. Anderson, et al. (1:05-cv-1369);**
- 8. Naja, et al. (1:07-cv-465);**
- 9. OneBeacon, et al. (8:07-cv-900);**
- 10. Kullman, et al. (8:07-cv-716);**
- 11. Hofler, et al. (1:07-cv-1055);**
- 12. Fowler, et al. (1:07-cv-1197);**
- 13. Shkolnik, et al. (1:07-cv-854);**
- 14. Albany, et al. (1:08-cv-691);**
- 15. Cipperley, et al. (1:07-cv-1136);**



16. Shanks, et al. (1:06-cv-1399);
17. Want Ad Digest, Inc., et al. (1:08-cv-189);
18. Nauman, et al. (1:07-cv-740);
19. Coughtry, et al. (1:08-cv-875);
20. Ivey, et al. (9:02-cv-470);
21. Cutter, et al. (1:06-cv-1381).

#### **Schedule**

Unless an action is designated “exempt,” all parties **shall** proceed in accordance with the schedule established in this order and attachment.

#### **Trials**

The attorneys and parties in the first action on the trial ready list, or in the first action on any subsequently amended trial ready list, **shall appear** at Courtroom No. 6, 445 Broadway, Albany, New York, First Floor, South, for trial beginning promptly at **9:30 a.m. on Monday, May 17, 2010**.

Each succeeding action on the trial ready list shall proceed on the day following completion of the action preceding it, unless a different date is otherwise ordered by the court.

The parties are hereby notified that their trial dates **will advance** should a case preceding them on the trial ready list settle, or for any other



reason, be removed from the list.<sup>1</sup> The parties are further advised that should a case be removed from the trial ready list because of settlement or some other non-exempt factor on or after **Thursday, May 13, 2010, at 4:00 p.m.**, the court may impose **sanctions** pursuant to N.D.N.Y. L.R. 47.3.

### **Final Pretrial Conferences**

To the extent practicable, final pretrial conferences will be subsequently scheduled within the week preceding the anticipated trial date. The attorneys for all parties in each action **shall appear** at this court's chambers, 445 Broadway, Albany, New York, First Floor, South, for the final pretrial conference.

***Note: The court will not conduct a settlement conference during the final pretrial conference. The co-assigned Magistrate Judges are available for settlement conferences, and the court expects that parties, if they elect to do so, will schedule such a conference with***

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<sup>1</sup>The attorneys representing each party on the trial ready list are set forth in the caption, and parties are free to consult with those ahead of them on the list. Furthermore, the parties may consult with Courtroom Deputy, John Law, concerning alterations in their numerical order, and will receive electronic notice as soon as is reasonably practicable should such alterations occur.



***the Magistrate Judge on or before May 6, 2010.***

### **Pretrial Submissions**<sup>2</sup>

Pursuant to **Attachment 1**, pretrial submissions **in all cases shall be filed in accordance with the schedule set forth in Attachment 1.**

### **Exemptions**

If a case is designated as “exempt” because it meets either of the two following criteria, it will be removed from the trial ready list and referred to a designated Judge who may elect to issue a new scheduling order setting new fixed dates for all further proceedings, including pretrial submissions and trial:

1. If, on or before **April 8, 2010**, all parties in an action file a Consent to the Exercise of Jurisdiction by a Magistrate Judge (see General Order 25, 28 U.S.C. § 636(c), N.D.N.Y. L.R. 72.2(b), and Attachment), the court will issue an Order of Reference, and designate the action as “exempt”; or

2. If this court subsequently refers an action to another District Court

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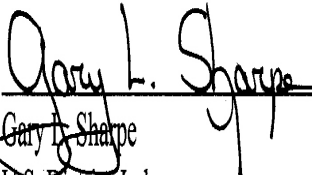
<sup>2</sup>To the extent that the requirements of this Order and attachments are inconsistent with any prior Uniform Pretrial Scheduling Order, this Order and attachments control.



Judge, the case will be designated “exempt” if the referral Judge elects to issue an amended scheduling order.

**IT IS SO ORDERED.**

January 8, 2010  
Albany, New York

  
\_\_\_\_\_  
Gary L. Sharpe  
U.S. District Judge



**Attachment #1**

**Pretrial Submissions**

***N.B.*** Unless otherwise noted, all parties shall electronically file and serve all pretrial submissions in accordance with General Order No. 22, ¶ 5.

The following pretrial submissions **shall** be filed in accordance with this Order.

**1. Joint Pretrial Stipulation**

On or before **Monday, April 12, 2010**, a joint pretrial stipulation shall be subscribed by counsel for all parties, and shall contain:

- (1)** The basis of federal jurisdiction;
- (2)** A list of all exhibits which can be stipulated into evidence or which will be offered without objection as to foundation; and
- (3)** Relevant facts not in dispute.

**2. Voir Dire**

On or before **Monday, April 12, 2010**, each party shall submit a numbered list of questions which the court, in the exercise of its discretion, may use during jury selection.

**3. Witnesses**

- (1)** On or before **Monday, April 12, 2010**, counsel shall file a witness list containing the following information regarding the witnesses that may be called to testify at trial other than solely for impeachment purposes:



- (a) The name and, if not previously provided, the address (city only) of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

***N.B.: Personal Privacy Protections may apply to disclosure of this information. See Local Rule 8.1; General Order No. 22, ¶¶ 2.1.3, 11.1-11.2 and 12.2.***

- (b) The designation of those witnesses whose testimony is expected to be presented by means of a deposition (including video-taped deposition), specifically identifying the pertinent portions of the deposition testimony to be offered.

(2) The unavailability of any witness, expert, or otherwise, will not be grounds for a continuance. In order to avoid the possibility of proceeding at trial without the testimony of an unavailable witness, counsel, where appropriate, shall preserve the testimony by written or video-taped deposition for possible use at trial. (Please refer to the attached instruction sheet for the use of video-taped depositions.)

#### **4. Exhibits**

- (1) All exhibits shall be marked for identification in the manner prescribed hereinafter. A complete set of copies of the exhibits or, alternatively, a copy of a CD-ROM containing the exhibits shall be presented to Judge Sharpe's Deputy Courtroom Clerk **AT THE BEGINNING OF TRIAL.**



- (2) The exhibits shall have been inspected by the opposing party and copied at their expense (unless waived) **BEFORE TRIAL COMMENCES**. All documents and/or papers intended as exhibits or to be used during the course of trial, including but not limited to documents, photographs, charts, diagrams, etc., shall be assembled in **BINDERS AND/OR ON CD-ROM** with each document properly marked at the lower right corner for identification purposes as directed below. In voluminous cases, consult with Judge Sharpe's Courtroom Clerk for the proper procedure to follow.
- (3) During the course of trial the Deputy Courtroom Clerk shall take charge of exhibits that are received into evidence. At the conclusion of the trial, the Courtroom Deputy Clerk will immediately return all of the exhibits to the proper parties. It is the responsibility of the parties to maintain the exhibits and to produce the exhibits for any appeal.
- (4) **BEFORE TRIAL COMMENCES**, counsel shall electronically file and serve an Exhibit List. The exhibits shall be listed on the form prescribed by the Court, a copy of which is attached to this Order. Counsel are to supply all the requested information with the exception of the two "Date Boxes" which should remain blank.
- (5) Counsel shall fill in the appropriate markers leaving the "File" and "Deputy Clerk" lines blank. All exhibits shall be assigned numbers by using a prefix of "P" for plaintiff, "D" for defendant, and "G" for Government (U.S. Attorney).

Plaintiff's exhibits should be denoted as: P-1, P-2, P-3, etc. Defendant's exhibits should be denoted as: D-1, D-2, D-3, etc. Government's exhibits should be denoted as:



G-1, G-2, G-3, etc. In cases involving multiple defendants, the exhibits shall be denoted with the initial of the last name of the defendant and its numerical identification number.

Stickers shall be affixed whenever possible to the lower right-hand corner of the exhibit. If the exhibit marker is going to cover any information on the exhibit, then affix the marker to the reverse side of the exhibit.

**5. Trial Brief**

On or before **Monday, April 12, 2010**, counsel shall electronically file and serve a trial brief containing argument and citations on any and all disputed issues of law, citing the applicable rules of evidence and case law. Trial briefs should also include any evidentiary issues that are expected to arise.

**6. Requests to Charge and Proposed Special Verdict Form**

On or before **Monday, April 12, 2010**, counsel shall ***traditionally*** file with the Clerk's Office and serve upon opposing counsel requests to charge and a proposed Special Verdict Questionnaire on either a CD-ROM or 3.5-inch computer disk, preferably in WordPerfect format. The requests to charge need only include instructions that are specific to the law in this case regarding liability, damages, and any unusual issues. The Court has usual boilerplate instructions.

**7. Motions in Limine**

On or before **Monday, April 12, 2010**, counsel shall electronically file and serve any motions in limine, citing the applicable rules of evidence and case law. Opposing counsel shall file any response to motions in limine no later than **April 19, 2010**.

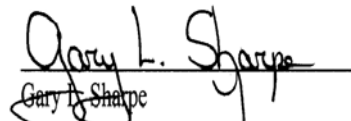


**MOTIONS IN LIMINE MAY NOT OTHERWISE BE FILED  
WITHOUT LEAVE OF THE COURT.**

**8. Depositions**

- (1) **BEFORE TRIAL**, counsel shall electronically file all non-video taped depositions to be used at trial. Counsel shall traditionally file all video-taped depositions to be used at trial. (See General Order No. 22, ¶¶ 1.2, unnumbered paragraph following 2.1.6). To the extent possible, objections are to be resolved between the parties. Areas of unresolved disagreement shall be presented to the Court for ruling at the Final Pretrial Conference. (See attached instruction sheet for use of video-taped depositions.)

January 8, 2010  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge



**INSTRUCTIONS FOR THE USE OF VIDEO TAPED DEPOSITIONS**

COUNSEL ARE TO VIEW ALL VIDEOTAPES WHICH MAY BE OFFERED INTO EVIDENCE AT THE TIME OF TRIAL. ALL VIDEO-TAPED DEPOSITIONS TO BE USED AT TRIAL SHALL BE FILED WITH THE CLERK'S OFFICE AT LEAST ONE WEEK BEFORE THE TRIAL READY DATE. NOT EARLIER THAN ONE WEEK AND NOT LESS THAN FOUR DAYS PRIOR TO THE TRIAL READY DATE, EACH PARTY SHALL INDICATE TO THE OTHER PARTY THE PORTION OF THE DEPOSITION TO BE OFFERED. TO THE EXTENT POSSIBLE, OBJECTIONS ARE TO BE RESOLVED BETWEEN THE PARTIES. COUNSEL SHALL SUBMIT ALL OBJECTIONS IN WRITING TO THE COURT FOR RULING PRIOR TO THE TRIAL READY DATE.

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THE CLERKS OFFICE HAS AVAILABLE A VHS FORMAT VIDEO CASSETTE PLAYER AND TELEVISION FOR USE AT TRIAL. PLEASE BE ADVISED THAT YOU MUST PROVIDE A PERSON TO RUN THE EQUIPMENT DURING THE COURSE OF THE TRIAL.

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**ELECTRONIC VISUAL EVIDENCE PRESENTER**

IN ADDITION TO THE VIDEO EQUIPMENT NOTED ABOVE, THE COURT HAS AVAILABLE A VISUAL EVIDENCE PRESENTER WHICH WILL ALLOW COUNSEL TO DISPLAY PHOTOS (NEGATIVES OR POSITIVES), DOCUMENTS, X-RAYS, AND 3-D OBJECTS , WITHOUT WIRES, ON TELEVISIONS PLACED THROUGHOUT THE COURTROOM. THIS EQUIPMENT IS AVAILABLE AT THE COURTHOUSES IN ALBANY, SYRACUSE, UTICA AND BINGHAMTON. USE OF THE VISUAL PRESENTER MAY BE REQUIRED BY THE TRIAL JUDGE PRESIDING OVER YOUR CASE. FOR FURTHER INFORMATION ON THE USE OF THIS EQUIPMENT, PLEASE CONTACT THE COURTROOM DEPUTY CLERK FOR THE ASSIGNED TRIAL JUDGE.



<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ PLAINTIFF EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>	<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ DEFENDANT EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>
<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ PLAINTIFF EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>	<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ DEFENDANT EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>
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United States District Court  
For The Northern District Of New York

Case No. \_\_\_\_\_  
Date: \_\_\_\_\_  
Presiding Judge: \_\_\_\_\_

( ) Plaintiff ( ) Defendant ( ) Court

Exhibit No.	Marked for Identification	Admitted Into Evidence	Remarks	Witness	Exhibit Description

Exhibits Returned To Counsel (Date): \_\_\_\_\_  
Signature: \_\_\_\_\_



Page \_\_ of \_\_

Exhibit No.	Marked for Identification	Admitted Into Evidence	Remarks	Witness	Exhibit Description

Exhibits Returned To Counsel (Date):\_\_\_\_\_

Signature:\_\_\_\_\_